IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 06.07.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice V.DHANAPALAN

Writ Appeal No. 2679 of 2001

1.M.Elumalai

2.Mohana

3.M.Palani

4.Saroja

5.Vasantha .. Appellants

Vs.

1. The State of Tamil Nadu,
   rep. by its Secretary ,
   Housing and Urban Development
   Department, Fort St. George,
   Chennai-9.

2. Chennai Metropolitan Development
   Authority, rep. By its Member-Secretary,
   8, Gandhi Irwin Road, Egmore, Chennai-8.

3. The Collector, Kanchipuram.

4. The Special Tahsildar(LA),
   Maraimalainagar, Chengleput District.

5. Indian Oil Corporation Ltd.,
   Chennai Divisional Office,
   rep. By the Chief Divisional Manager,
   Anna Salai, Chennai-2. .. Respondents

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Writ appeal filed under Clause 15 of the Letters Patent against the order dated 22.01.2001 made in W.P.No.22009 of 2000.

For Appellant : Mr.P.Seshadri
For Respondents 1 to 4 : Mr.C.Thirumaran
Government Advocate

For 5th respondent : No appearance

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JUDGMENT

(Judgment of the Court was delivered by P.SATHASIVAM, J.)

The above writ appeal is filed against the order of the learned single Judge dated 22.01.2001 made in W.P.No.22009 of 2000, in and by which, the learned single Judge, after finding no merit in the writ petition, dismissed the same.

2. Heard the learned counsel appearing for the appellants as well as the learned Government Advocate for the respondents.

3. The appellants, aggrieved by the proceedings of the first respondent dated 25.10.2000 declining to accede their request and granting exemption, filed W.P.No.22009 of 2000 before this Court. Several contentions were raised before the learned single Judge including the one that in respect of other lands acquired under the very same acquisition proceedings, the Government have exempted from acquisition and discriminated the case of the petitioners. The learned single Judge, by the impugned order, after finding that the petitioners' land were taken possession as early as on 31.03.1987 and the same has also been allotted to Indian Oil Corporation except 34 cents of land is left to the fifth respondent for further developments and after finding that there is no scope for exclusion of the petitioner's land from the acquisition proceedings, accepting the Government's stand, dismissed the writ petition.

4. Mr.P.Sheshadri, learned counsel appearing for the appellant once again reiterated that the Government is not justified in discriminating the case of the appellants since they exempted in respect of other lands. In this regard it is useful to refer the order dated 25.10.2000 passed by the Government. While considering the representation of the petitioners, after getting necessary remarks, the Government arrived at the following conclusion.

"மறைமலை நகர் திட்டத்திற்காக திருக்கச்சூர் கிராமத்தில் பல எண்.553.1ல் கையகப்படுத்தப்பட்ட 78 சென்ட் நிலத்தினை பெட்ரோல் பங்க் அமைப்பதற்காக ஒதுக்கீடு செய்ததை ரத்து செய்து நில எடுப்பிலிருந்து விடுப்பது தொடர்பான தங்களது மற்றும் ஐந்து நபர்களின் கோரிக்கை நன்கு பரிசீலிக்கப்பட்டது. மேற்படி நிலம் மறைமலைநகர் திட்டத்திற்காக கையகப்படுத்தப்பட்டு இதன் ஒரு பகுதி நிலம் பொது நோக்கத்திற்காக பெட்ரோல் பங்க் அமைப்பதற்கு ஒதுக்கீடுசெய்யப்பட்டுள்ளது. மீதமுள்ள இடம் தொழிற்பகுதியாக வரையறுக்கப்பட்டுள்ளதால் இந்த இடத்தை தொழிற்பகுதியாக மேம்படுத்த சென்னை பெருநகர் வளர்ச்சிக் குழுமத்திற்கு அத்தியாவசியமாக தேவைப்படுகிறது. எனவே, மேற்படி நிலத்தினை நில எடுப்பிலிருந்து விளக்களிக்கக் கோரும் தங்களது கோரிக்கையை ஏற்க இயலாது என்பதால் தங்கள் கோரிக்கை நிராகரிக்கப்படுகிறது.'

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5. It is seen from the above order that the lands of the appellants as well as others were acquired for the formation of Maraimalainagar Scheme. While implementing the said scheme, certain lands were ear-marked for the purpose of petrol bunk. It further shows that the remaining lands were allotted to CMDA for their use and development. By furnishing all these details, the Government, after considering the claim of the petitioners/appellants, conveyed its inability to accept their request of granting exemption from the acquisition proceedings.

6. The learned single Judge, considered the said aspect. In addition to the same, it is brought to him that the lands belonging to the appellants were acquired and possession have been taken and thereafter the same was handed over to the fifth respondent viz., Indian Oil Corporation. The order further shows that after utilising the major portion of the land by the Indian Oil Corporation, only 34 cents of land is left for putting further developments. In such circumstances, while agreeing with the view expressed by the learned counsel for the appellants, we are also of the view that when the lands of the appellants were allotted to the fifth respondent, Indian Oil Corporation and the remaining portion are at the hands of CMDA for further developments, there cannot be any direction to the Government to grant exemption. It is not the case of the appellants that their request was not considered. On the other hand, the same was duly considered and rejected after taking note of the grounds relied on. No doubt, the counsel for the appellants has submitted that when the Government exempted certain lands from the purview of acquisition, ought to have applied the same yardstick to the case of the appellants also. As rightly observed by the learned single Judge, in the absence of materials or details/information for granting exemption in respect of other lands, there cannot be any direction on the ground of discrimination. In fact, the above mentioned order of the Government dated 25.10.2000 gives ample reasons for their inability to exempt the land of the petitioners. Accordingly, we are unable to accept the contention raised by the learned counsel for the appellants. Consequently, the writ appeal fails and the same is dismissed. No costs.

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Asst.Registrar

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Sub Asst.Registrar

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To

1. The Secretary ,
   State of Tamil Nadu,
   Housing and Urban Development
   Department, Fort St. George,
   Chennai-9.

2. The Member-Secretary,
   Chennai Metropolitan Development
   Authority, 8, Gandhi Irwin Road,
   Egmore, Chennai-8.

3. The Collector, Kanchipuram.

4. The Special Tahsildar(LA),
   Maraimalainagar, Chengleput District.

5. The Chief Divisional Manager,
   Indian Oil Corporation Ltd.,
   Chennai Divisional Office,
   Anna Salai, Chennai-2.

+ one cc to Government Pleader, SR.No.29137.

PLI (CO)
RSM/17.7.2006

W.A.No.2679 of 2001

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